

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DEWAYNE RICHARDSON,

Plaintiff,

No. CIV S-04-0393 MCE GGH P

vs.

D.L. RUNNELS, et al.,

Defendants.

ORDER

_____/

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has requested the appointment of counsel. The court has determined that this case may be appropriate for appointment of counsel.

The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, (1989). In certain exceptional circumstances, however, the court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015 (9th Cir. 1990); Wood v. Housewright, 900 F.2d 1332 (9th Cir. 1990). In this case the court is not sure whether those exceptional circumstances exist or not. Therefore, this court will refer this case to the civil rights panel in this district for review.

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1 Plaintiff is cautioned while the case is under review, he has responsibility to
2 continue to prosecute this action. The court is not staying the litigation pending the review;
3 rather the review and continued processing of this case will take place at the same time. No
4 scheduled dates in this litigation have been vacated. Also, it may ultimately turn out that
5 volunteer counsel may not be procurable for plaintiff's case.

6 Plaintiff has also filed a document entitled "motion for discovery" which is, in
7 fact, not a motion for the court's consideration, but a request for production of documents from
8 defendants. Plaintiff is informed that court permission is not necessary for discovery requests
9 and that neither discovery requests served on an opposing party nor that party's responses should
10 be filed until such time as a party becomes dissatisfied with a response and seeks relief from the
11 court pursuant to the Federal Rules of Civil Procedure. Discovery requests between the parties
12 shall not be filed with the court unless, and until, they are at issue. Plaintiff's requests, mis-
13 identified as a motion, will be placed in the court file and disregarded.

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. The Clerk of the Court is directed to copy the contents of the file and
16 forward it to the University of California, King Hall Civil Rights Clinic; and
17 2. The Civil Rights Clinic shall inform the court of their decision within 30 days;
18 3. Plaintiff's August 15, 2005 "motion for discovery," which consists of requests
19 for production of documents that need only be served upon defendants, will be placed in the
20 court file and disregarded.

21 DATED: 9/20/05

22 /s/ Gregory G. Hollows

23 _____
24 GREGORY G. HOLLOWS
25 UNITED STATES MAGISTRATE JUDGE

26 GGH:009
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